IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 4474 of 2001 (M/S)
(Old No. 28882/1999)

1. Subhash Chand S/o Mohar Singh.
2. Yash Pal Singh S/o Kashi Ram.
   Both R/o Nagla Aimat, Pargana Mangalore,
   Tehsil Roorkeee, District Haridwar.

... Petitioners

Vs

1. Deputy Director of Consolidation,
   Muzaffar Nagar, Camp Roorkee.
2. Settlement Officer of Consolidation,
   Haridwar.
3. Consolidation Officer, Haridwar.
4. Sadhu Ram S/o Balveer,
   R/o Dhandhera,
   Pargana &Tehsil Roorkee
   District Haridwar.
5. Consolidation Committee,
   through its President, Consolidation Committee,
   Gram Sabha Nagla Aimat,
   Pargana Mangalore,
   Tehsil Roorkee, District Haridwar.

... Respondents

Mr. N.S. Negi, Advocate for the petitioners.
Mr. Lok Pal Singh, Advocate for respondent No. 4.

Date: 4th August, 2006

Hon'ble Rajesh Tandon, J.

1. By the present writ petition, the petitioners have prayed for a writ of certiorari quashing the orders dated 28.05.1999, 04.06.1997 and 31.08.1996 passed by respondents Nos. 1, 2 & 3 respectively.

2. Briefly stated, according to the case of the petitioners, respondent No. 4 preferred objections under Section 21(1) of the U.P. Consolidation of Holdings Act, 1953 on the ground that the Provisional Consolidation

Scheme prepared by the Assistant Consolidation Officer is wholly incorrect to the extent of allotting Chak on Gata Sankhya 7/1, 7/1 and 6. He should have been allotted Chak No. 168.

3. The petitioners have submitted that Gata No. 57 has been purchased by them through registered sale deed measuring 18 bighas from one Yogendra Kumar. Consolidation Officer vide order dated 31.08.1996, allotted Gata No. 57 in favour of respondent No. 4 by allowing the objections.

4. Petitioners preferred the appeal before the Settlement Officer, Consolidation against the order dated 31.08.1996. The said appeal was dismissed vide order dated 04.06.1997. Thereafter, the petitioners preferred a revision before Deputy Director of Consolidation (respondent No. 1) against the orders dated 04.06.1997 and 31.08.1996. The said revision was also dismissed vide order dated 28.05.1999.

5. The present writ petition has been filed challenging the orders dated 28.05.1999, 04.06.1997 and 31.08.1996 passed by respondents Nos. 1, 2 & 3 respectively.

6. A perusal of the order dated 28.05.1999 passed by the revisional court shows that the demand of the petitioners, with regard to allotment of Chak No. 57, has been satisfied sufficiently. The relevant findings of the revisional court to this effect are quoted below:

"निगरानी कर्ताओं को गटा संख्या 57 पर पहले से ही उनकी मूल जोत से अधिक मूल्यांकन का चक प्रदिष्ट किया जा

चुका है, इसलिए गाटा संख्या 57 पर रकबा बढ़ाया जाना न्याय संगत नही है।"

7. In view of the above, since the claim of the petitioners has been satisfied, I do not find any illegality in the orders passed by the Courts below so as to interfere under Article 226/227 of the Constitution of India.

8. In **Surya Dev Rai Vs. Ram Chander SCC 2003 Vol-6 675**, the Apex Court has held as under: -

> "Supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate Court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the Court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction.
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> Be it a writ of certiorari or the exercise of supervisory jurisdiction, none is available to correct mere errors of fact or of law unless the following requirement are satisfied: (i) The error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby.
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> A patent error is an error which is self-evident i.e. which can be perceived or demonstrated without involving into any lengthy or complicated argument or a long-drawn process of reasoning. Where two inferences are reasonably possible and the subordinate court has chosen to take one view, the error cannot be called gross or patent.

> The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion. Care, caution and circumspection need to be exercised, when any of the above said two jurisdictions is sought to be invoked during the pendency of any suit or correction is yet capable of being corrected at the conclusion of the proceedings is an appeal or revision preferred there against and entertaining a petition invoking certiorari or supervisory jurisdiction of the High Court would obstruct the smooth flow and or early disposal of the suit of proceedings. The High Court may feel inclined to intervene where the error is such, as, if not corrected at that every moment, may become incapable of correction at a letter stage and refused to intervene would result in stravesty of justice or where such refusal itself would result in prolonging of the lis."
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> The High Court in exercise of certiorari or supervisory jurisdiction will not convert itself into a court of appeal and indulge in reappreciation or evaluation of evidence or correct errors in drawing inferences or correct errors of mere formal or technical character."

9. In view of the aforesaid, the writ petition is liable to be dismissed and is hereby dismissed. No order as to costs.

(Rajesh Tandon, J.)